On Behalf of the

# New Mexico Commission on Access to Justice Prepared for the New Mexico Supreme Court

With Funding from the Justice for All Initiative of the National Center for State Courts

Proposed Strategic Plan Framework for 2020-2021 for New Mexico's Civil Legal System

### **EXECUTIVE SUMMARY**

#### The New Mexico Commission on Access to Justice

The New Mexico Supreme Court established the New Mexico Commission on Access to Justice (the Commission) in 2004. The Commission's mission was to expand resources for civil legal assistance to New Mexicans living in poverty. The Commission completed its initial State Plan for the Provision of Legal Aid to Low-Income New Mexicans (the State Plan) in 2007. This 2019 ATJ Strategic Action Plan puts into effect many of the recommendations in the State Plan, and will lead to specific target dates for completion along with other details to guide full implementation.

#### The Justice for All Initiative

In 2016, the New Mexico Supreme Court asked the Commission to develop a strategic plan in response to Resolution 5, a joint resolution of the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA), which stated:

[...] the Conference of Chief Justices and the Conference of State Court Administrators support the aspirational goal of 100 percent access to effective assistance for essential civil legal needs and urge their members to provide leadership in achieving that goal and to work with their Access to Justice Commission or other such entities to develop a strategic plan with realistic and measurable outcomes;...

The National Center on State Courts (NCSC) developed Guidance Materials in which it identified sixteen components that must be in place for a state to reach the goal of 100 percent access to effective assistance for essential civil legal needs. The Guidance Materials emphasized several priorities that would change the way the Commission functions

- Focusing on the system user perspective;
- Integrating community members and justice system users into access to justice efforts; and
- Expanding the mission to include people of modest means.

An inventory of the components needed to realize our vision of 100 percent access for essential civil legal needs revealed many

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gaps. On the bright side, we identified a number of positive initiatives we can build on and an abundance of people excited and ready to be involved.

This plan focuses on "essential legal needs" as contemplated by the Justice for All Initiative. For the purposes of the plan, the Commission adopted the definition of "essential civil legal needs" found in the Legal Services Corporation's report entitled, The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-Income Americans.

# "Essential civil legal needs" are those relating to:

- Safe housing and work environments
- Access to health care
- Safeguards against financial exploitation
- Assistance with family issues such as
  - o Protection from abusive relationships
  - o Child support
  - o Child custody

In 2018, the Commission implemented a community outreach effort that included "listening sessions" with groups of key community members in Albuquerque, Hobbs, Las Cruces, Santa Fe, Taos and Truth or Consequences. Commissioners also met with representatives of 14 community groups in Albuquerque including health clinics, veterans' groups, community action groups, funders, and the faith community.

### Recommended Strategic Actions for 2020-2021 in Order of Priority Areas

Beginning in the fall of 2018, the Commission convened a series of meetings focused on developing strategic action plans for each component. These meetings included members of the Commission, persons active in the community on civil justice issues, representatives of civil legal service providers, and community members. A list of the individuals and organizations that participated is included in Appendix 1. The working groups used practical guidelines to select realistic, priority actions to begin this systemic work. After selection of the specific strategic actions, the group as a whole ranked the top component areas of the plan. The order in which the proposals are set forth reflects these priority choices. After the approval of a final plan, this overall sense of priority may be useful to guide the work of the implementation teams as they complete the detailed action plan, examine available resources, and set realistic deadlines for completion.

### 1. Broad Self-Help Informational Services

- Integrate and align existing self-help materials' currently available from different providers in order to make them available on an enhanced website.
- Consult with the State Bar to create a working group that will explore the role of the private bar to expand legal materials availability.
- Update existing websites with accurate information on all providers.
- Create videos in different languages that explain general process/procedures along with instructions on how to change custody, deal with eviction, file a restraining order, preparing for hearings, etc.
- Explore the feasibility of a statewide self-help service center using telephone, internet, co-browsing, chat, text messaging, and videoconferencing.

### 2. Community Integration and Prevention

- Promote and collaborate on an initiative re "legal navigators" who can expand system capacity and facilitate use by end-users regardless of their personal capacity or geographic location.
- Increase coordination and integration among, the various civil legal service programs and other community-based groups whose client bases need civil legal assistance.
- Continue implementation of the "... And Justice for All" communications campaign to educate the public about the importance of access to assistance with civil legal needs.
- Prepare quarterly Bar Bulletin insert or article that reports on developments at the community level and continues to identify ways for members of the bar to support this work.
- Deliver regular communication with Supreme Court and New Mexico State Bar to keep both bodies engaged and up to date on Commission activities and goals.

# 3. Expansion and Efficiency of Full Service Representation

- Reduce the number of eligible applicants that are turned away by civil legal services programs by:
  - o Increasing funding for these programs;
  - o Focusing efforts on essential legal needs and other priorities in the Supreme Court's state plan;
  - o Improving collaboration by programs; and
  - o Encouraging innovations in assistance to households with incomes between 125 and 200 percent of the federal poverty level.
- Reevaluate emeritus attorney rule to increase pro bono resources.
- Ensure that pro bono attorneys have access to practice guides to enable them to provide assistance beyond their specialty areas.

### 4. Resource Planning

- Develop and implement a plan to establish a unified resource development entity capable of expanding fundraising, securing grants, and coordinating provider resource development efforts.
- Develop a detailed strategic plan for resource development that can be guided by the new entity.
- Develop an updated resource budget to support long term strategy for ensuring sufficient resources for Justice for All goal.

# 5. Simplification

- Make courthouses more user-friendly by developing and implementing appropriate signage.
- Expand and enhance the use of "Guide and File."
- Develop protocol for court staff to provide smaller forms packets.

# 6. Plain Language Forms

• Develop plain language forms for cases in which users commonly represent themselves.

# 7. Design, Governance, and Management

- Map out the Commission's structure (Supreme Court, staff, steering committee, implementation teams, etc.) and begin implementation.
- Create new implementation teams aligned with Justice for All Strategic Action Plan.
- Revise current process for appointing commissioners and create process that results in greater diversity and inclusion of key stakeholders on commission.
- Recruit diverse stakeholders including users and private bar to oversee meaningful progress in ATJ.
- Develop plan for justice system user focus groups and surveys to inform ATJ work on ongoing basis.
- Develop plan for community based organizations to inform ATJ work on an ongoing basis
- Educate local district pro bono groups about Justice for All Initiative and establish local ATJ committees that provide feedback to the Commission and assist with implementation tasks.
- Develop a comprehensive plan for evaluation of progress towards the Justice for All goal with an inventory of what data, including demographic information, the ATJ should be gathering on a regular basis.

#### 8. Judicial and Court Staff Education

• Continue working with the Judicial Education Center to coordinate its planning work with related strategic actions in this plan.

### 9. Triage, Referral, and Channel Integration

• Enlist courts and the State Bar of New Mexico in enhancing and participating in a robust online system that assesses what services each individual needs and each situation requires, and makes appropriate and verified referrals.

#### 10. Courtroom Assistance

• Explore courtroom/courthouse navigator options.

### 11. Role Flexibility

- Support implementation of a new legal professional role as designed and recommended by New Mexico Supreme Court working group.
- Continue to explore other models for role flexibility for other professionals.

# 12. Technology Capacity

- Inventory current technology capacity within the court system and the provider community.
- Analyze where within the civil legal services system specific types of technology capacity should be housed.
- Seek funding appropriate for purchasing specific types of priority technology capacity.
- Explore feasibility of statewide platform for free court appearance by telephone and video-conference.

# 13. Unbundled Legal Assistance

- Identify best practices in other states within the Justice for All Initiative that have demographics similar to New Mexico and have made progress with unbundled legal assistance.
- Convene an implementation team with key representatives of the State Bar and the Judiciary to develop specific implementing rules and identify the path forward to expand the practice of offering unbundled legal services in New Mexico.

# 14. Language Access

- Expand internet access especially in rural areas and work with agencies to recruit interpreters.
- Support the Administrative Office of the Courts' (AOC) continued work with New Mexico Department of Workforce Solutions to create well-paid career opportunities for bilingual people in New Mexico.
- Support AOC's continued development of bilingual forms, the online avatar, videos and signage, and recruit and expand the court bilingual employee pool.
- Continue courts' provision of video remote interpreting services on-demand to improve access for court users who speak languages spoken less frequently or for which interpreter services are not available in New Mexico.
- Implement and expand relationship with ReadWest, Inc., a nonprofit volunteer literacy program, to provide scribing services at the courts for limited-English proficient, low literacy, blind or low-vision individuals.

# 15. Compliance Assistance

• Expand the use of text message reminders to litigants.

# 16. Alternative Dispute Resolution

• Coordinate with Alternative Dispute Resolution (ADR) Commission

It is not uncommon for time-intensive planning to result in flawed execution that fails to deliver positive outcomes. The plan anticipates this challenge During the planning meetings that developed these strategic actions, participants have built working relationships and shared commitment to support these actions by continuing to engage during the implementation phase.

Mexico Commission Once the New on Access to Justice and the New Mexico Supreme Court approve a final version of this plan, the strategic actions will be divided and assigned to a set of new implementation teams. It will be the responsibility of each implementation team to complete the detailed action will effective planning that enable execution.

The long-term result of these efforts will be to increase use of the courts and mediation systems, and to generate more demand for representation by attorneys in cases that have potentially devastating consequences on the lives of low- and modest-income New Mexicans.

Current studies show that civil legal services programs in New Mexico turn away half of the eligible applicants seeking assistance. And courts at all levels in New Mexico are barely able to handle current caseloads. It is clear that, in the long run, Justice for All will require increased investments in the justice system and in civil legal services. Future annual plans, based on studies that are now underway, will begin to identify where those investments should be made, and estimate their cost.

# CONCLUSION

The completion of this planning is the result of many hours of work by many individuals who have donated their time. Their engagement through a long, multi-phase process is a testament to their commitment to their resolve to improve access to justice in New Mexico. With the completion of the planning, it is now time to move forward to implementation.

Louis D. Brandeis once said,

# " Most of the things worth doing in the world had been declared impossible before they were done."

We know that realizing the vision of 100 percent access to meaningful assistance with essential legal needs is ambitious, to say the least. But no one should question that it is a worthy vision, and one that our values and our Constitution require that we zealously pursue.

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# PART ONE: INTRODUCTION

This plan describes strategies for increasing access to justice for low- and modest-income households.

Low-income households' lack of access to justice has been studied for many years, most intensely by a survey conducted by the American Bar Association (ABA). These studies show that about half of all low-income households have one or more legal needs. These households reacted to their legal needs as follows:

- About one-third did nothing at all.
- A quarter took action "on their own" without entering the legal system.
- Around ten percent sought help from a "non-legal" third party.
- Slightly less than a third took legal or judicial action.

Of those that took legal or judicial action, two-thirds were assisted by an attorney; about fifteen percent had their need taken to a mediator or arbitrator; and about twenty percent proceeded "pro-se"— that is, appeared in court or at an administrative hearing without any assistance from an attorney or other legal resource.

Modest income households have been less intensely studied. The ABA survey showed that modest-income households' legal needs are strikingly similar to those of low-income households, with significantly more needs in only three categories: employment, personal and economic injury, and wills and estates. Households with the most legal

needs were clustered just below, and just above, 125 percent of the federal poverty income level.

#### **Improving Access**

The early efforts by the Office of Economic Opportunity (OEO launched during the "War on Poverty") to secure justice for all showed that providing a lawyer to every low-income household with a legal need was not feasible. Aside from the fact that there were not enough lawyers, there were other barriers:

- A significant percentage of households did not know that their problem was a legal problem.
- Many of those that understood that they had a legal problem were unwilling to enter the legal system, often because they perceived it to be biased or unfair.
- Others had no idea how to find help and were certain that they could not afford an attorney.

Modest income households were more aware that they had a legal problem, but shared suspicion of the legal system and the certainty that they could not afford an attorney. It might seem obvious that, given these barriers, new ways to provide justice for all besides representation by an attorney were needed, but serious efforts to develop alternatives did not begin until the late 1990's.

For poor states like New Mexico, the number of low- and modest-income households presents a formidable challenge to any effort to secure justice for all. Around 200,000 New Mexican households are eligible for Medicaid, and depending on how "modest income" is defined, many modest-income households are not eligible for Medicaid. It is reasonable to project that, at any given time, there are at least 100,000 legal needs in low- and modest-income New Mexico households.

That situation means that the effort to secure access to justice in New Mexico will take many years, demand commitment from the courts, the bar, the legislature and the general public, and require significant additional money and human resources.

This first-year plan describes efforts that can be taken now to increase justice for all at little or no additional cost. At the most general level, it proposes:

- Recruiting the broader community to help people access assistance with essential legal needs;
- Increasing understanding of which commonly occurring problems in the lives of low- and modest-income New Mexicans can be addressed in the civil justice system;
- Making these households aware of the resources that are now in place to assist them:
- Creating new non-attorney resources to assist these households;

- Making the most efficient use of attorney resources by:
  - o Expanding support for attorneys who volunteer to assist these households;
  - o Increasing resources for, and improving collaboration between, civil legal providers;
  - o Focusing attorney assistance on legal problems that have the most negative impact on the lives of lowand modest-income households;
- Expanding current efforts to make the courts more accessible and "user-friendly".

The long-term result of these efforts will be to increase use of the courts and mediation systems, and to generate more demand for representation by attorneys in cases that have potentially devastating consequences on the lives of low- and modest-income New Mexicans.

Current studies show that civil legal services programs in New Mexico turn away half of the eligible applicants seeking assistance. And courts at all levels in New Mexico are barely able to handle current caseloads. It is clear that, in the long run, justice for all will require increased investments in the justice system and in civil legal services. Future annual plans, based on studies that are now underway, identify will begin to where those should investments be made. and estimate their cost.

# PART TWO: HISTORY AND CONTEXT FOR THE PLANNING PROCESS

The New Mexico Commission on Access to Justice (the Commission) was established by Order of the New Mexico Supreme Court in 2004 in recognition that the civil justice system was failing to meet the needs of low-income New Mexicans. Thanks to the leadership of Senior Justice Petra Maes and Judge Sarah Singleton, both long time advocates for civil access to justice, New Mexico was one of the earliest commissions to be established in the nation.

# The creation of the Commission resulted in a series of ground breaking steps:

- Mandatory reporting of volunteer (pro bono) hours to the State Bar
- Establishment of pro bono committees in each of the thirteen judicial districts
- Creation of the position of Statewide Pro Bono Coordinator
- Establishment of the statewide Volunteer Attorney Program
- Creation of new sources of funds for civil legal services
- Restructuring of the IOLTA (Interest on Lawyers' Trust Accounts) program
- Increased recurring donations to civil legal services from private attorneys and law firms
- Clarification of the role of the State Bar in the civil justice system

As a consequence of these steps volunteer service by attorneys around the state increased dramatically. Recognizing that providing direct legal assistance in the form of a lawyer for every legal problem was an unrealistic goal, the Commission and the local pro bono committees looked for ways to expand the delivery of information through legal clinics and enhanced self-help centers at the courts. Finally, the Commission advocated for the adoption of rules that allow for limited legal representation and a limited licensure for attorneys in good standing in other states who work for a New Mexico legal aid organization.

The Commission completed the first version of its State Plan for the Provision of Legal Aid to Low-Income New Mexicans (the State Plan in 2007, and revised the plan in 2014 Since it was first finalized in 2007, the State Plan has served as a guide for funders such as the New Mexico Civil Legal Services Commission and the State Bar of New Mexico Access to Justice Find Grant Commission (formerly the Supreme Court Fund for Access to Justice). Though it was full of forward thinking ideas, the State Plan did not include specific dates and milestones for implementation. The 2019 Justice for All Strategic Action Plan puts into effect many of the recommendations in the State Plan, and will include specific target dates for completion, resources necessary, and outcome measures

guide full implementation. A copy of the State Plan without its extensive appendices is included here as Appendix 3.

#### The Justice for All Initiative

In 2016, the New Mexico Supreme Court asked the Commission to develop a strategic plan in response to Resolution 5, a joint resolution of the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA), which stated:

[. . .] the Conference of Chief Justices and the Conference of State Court Administrators support the aspirational goal of 100 percent access to effective assistance for essential civil legal needs and urge their members to provide leadership in achieving that goal and to work with their Access to Justice Commission or other such entities to develop a strategic plan with realistic and measurable outcomes;...

After Resolution 5 was adopted, the Public Welfare Foundation partnered with the National Center for State Courts (NCSC) and the Self-Represented Litigation Network (SRLN) to develop a Justice for All Initiative focused on the development of Strategic Action Plans in a group of states. The Commission applied for this first round of funding, but was not awarded a grant.

The NCSC engaged national experts to draft extensive guidance materials to assist states with their planning efforts. The Guidance Materials identify 16 components that must be in place for a state to reach the goal of 100 percent access to effective assistance for essential civil legal needs. The Guidance Materials emphasized several priorities that would change the way the Commission functions:

- Focusing on the system user perspective
- Integrating community members and justice system users into access to justice efforts
- Expanding the Commission's mission to include assisting people of modest means

The Commission decided to launch a Justice for All planning process even though its grant proposal had been unsuccessful. In the spring of 2018, the Commission convened a group of Commissioners and interested parties to conduct an inventory and assessment of the access to justice resources available in our state. Generally, the inventory and assessment revealed what we already knew:

- New Mexico courts have established statewide programs in a few areas (Alternative Dispute Resolution, Language Services, Judicial Education, and Self-Help Centers for example).
- There are bright spots in many areas around the state (local Pro Bono Committees)
- There are also multiple small innovative projects based mainly in Albuquerque and other metro areas.

An inventory of the components needed to realize our vision of 100 percent access for essential civil legal needs revealed many gaps. On the bright side, we identified a number of positive initiatives that can be built on and an abundance of people excited and ready to be involved.

This plan focuses on "essential legal needs" as contemplated by the Justice for All Initiative. For the purposes of the plan the Commission adopted the definition of "essential civil legal needs" found in the Legal Services Corporation's report entitled, *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans.* 

# "Essential civil legal needs" are those relating to:

- Safe housing and work environments
- Access to health care
- Safeguards against financial exploitation
- Assistance with family issues such as:
  - o Protection from abusive relationships
  - o Child support
  - o Child custody

The Commission was fortunate to receive a grant from an anonymous donor in the summer of 2018. With this grant, the Commission engaged Mark Bennett of Decision Resources, Inc., to guide the planning process. Beginning in the fall of 2018, the Commission convened a series of meetings focused on developing strategic action plans for each component. Between meetings, a steering committee continued work on the draft plans to keep the work moving forward.

At the same time, as recommended in the NCSC guidance materials, the Commission implemented a community outreach effort. Commissioners and interested parties conducted "listening sessions" with groups of key community members in Albuquerque, Hobbs, Las Cruces, Santa Fe, Taos and Truth or Consequences. Each session was hosted by a local community organization and was attended by 8-12 individuals. (A list of participants is in Appendix 1.) Commissioners gathered information about barriers to the civil justice system and trusted sources of information in each community. Barriers identified included:

- A shortage of lawyers in general
- Legal services providers' lack of capacity to take cases
- Lack of information about and availability of self-help resources
- Court processes that do not into take account the reality of people's lives, such as work schedules, transportation issues, and child care concerns

Commissioners also met with representatives of 14 community groups in Albuquerque, including health clinics, veterans' groups, community action groups, funders, and the faith community. Many of the groups expressed interest in

partnering with the Commission to expand access to justice. (A list of participants is in Appendix 1.)

In the fall of 2018, the Commission learned that its application for the second round of Justice for All funding had been successful and the Commission was awarded a Justice for All grant for an 18-month period. These funds helped the Commission finalize its strategic action plan and prepare for implementation in the fall of 2019. As a grantee, the Commission is now part of a nationwide network of states that are participating in this initiative — significant staff dedicated because NCSC has to this initiative who provide guidance, knowledge, resources, and access to planners in other states who are facing challenges similar to New Mexico, e.g., large rural areas with few attorneys, limited financial resources. lack technology infrastructure, the unique needs of Native American tribes, and border immigration issues.

New Mexico has already benefited from the experiences of some of the first-round grantees. NCSC staff members act as connectors and facilitators so best practices and promising ideas can be exchanged among the grantee states. These resources offer substantial support to the ongoing process of execution, review, and course correction that will be necessary to realize the vision of this plan.

#### Implementation and Evaluation of Approved Actions

It is not uncommon for time-intensive planning to result in flawed execution that fails to deliver positive outcomes. The plan anticipates this challenge. During the planning meetings that developed these strategic actions, participants have built working relationships and shared commitment to support these actions by continuing to engage after the plan during the implementation phase following plan approval.

Once the New Mexico Commission on Access to Justice and the New Mexico Supreme Court approve a final version of this plan, the strategic actions will be divided and assigned to a set of new "implementation teams". Many of the members of the planning working groups will join these teams. It will be the responsibility of each implementation team to complete the detailed action planning that will enable effective execution. Some of this pre-planning has already taken place during the meetings that identified and proposed these strategic actions. The planning working groups followed a structure proposed by the national Justice for All Initiative. (See Appendix 2.) To implement strategic action with positive results, there must be someone with lead responsibility to coordinate implementation. Necessary resources must be identified and available. There must be a realistic time frame for completion and there must be meaningful outcome measures with relevant data to assess results.

# PART THREE: DEFINITIONS AND GUIDING PRINCIPLES

#### **Definitions**

#### CIVIL JUSTICE SYSTEM:

The entire system of civil justice including the courts, private bar, bar association, and civil legal aid organizations.

#### CIVIL LEGAL SERVICES SYSTEM:

The network of private, non-profit organizations that provides free or low-cost legal services to the public.

#### **VISION:**

All New Mexicans have 100 percent access to meaningful help for essential civil legal needs.

#### **MISSION**:

To expand access to the civil justice system for all New Mexicans through policy and planning.

#### **Principles**

- 1. Equal justice under the law is a right, not a privilege. As such, in our democracy, everyone with a non-criminal legal problem who needs help accessing the civil justice system should have help.
- 2. It is important to eliminate barriers to the civil justice system that deny justice and keep people in poverty, such as racial inequities.
- **3.** The scope of the challenge we face requires a collaborative effort of government, the legal community, nongovernmental organizations, and the community at large.
- **4.** The lived experience of the justice system user should guide improvements to the civil justice system.
- **5.** A good civil legal services system must offer a full range of service delivery methods including legal information provision, direct legal help, and advocacy for systems change at both the local and national levels.
- **6.** Increasing access to justice requires responsible planning and management of our limited resources.
- **7.** Access to justice is the responsibility of all branches of government at all levels.

# PART FOUR: RECOMMENDED STRATEGIC ACTIONS FOR 2019-2020

# Use of a National Planning Model

The Justice for All model uses a carefully constructed analysis of 16 major components of a state civil justice system that must be evaluated and addressed in order to increase access to justice. The graphic below provides an overview. Each component is further described with key elements and commentary about possible approaches and implementation issues. A full description of the Justice for All planning components and elements is attached as Appendix 2.

The component structure of the Justice for All model provides a credible, common framework to unify diverse stakeholders, maintain focus, and build momentum. This framework is flexible to permit each state commission to select the most relevant activities and approaches while thinking in a comprehensive, strategic way about the justice system. Also, New Mexico gains the advantage of partnership in a national network. With a common language, it becomes easier to learn from the successes and mistakes of other states that are using the same approach to address similar challenges.

Diagram A. Cluster Framework

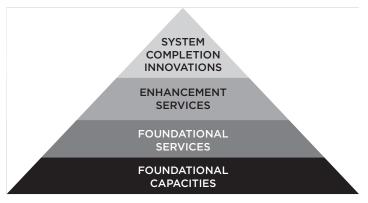
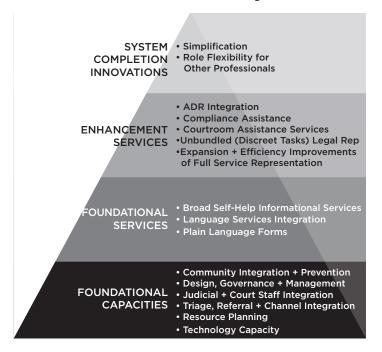


Diagram B. Cluster Framework with Components



#### **Planning Process**

The Commission's planning process recognizes that this plan serves as the start of a sustainable, multi-year journey to progress toward a big vision. New Mexico is a financially under-resourced, large, rural state with many unmet needs and significant barriers to achieving 100 percent access to essential civil legal needs.

The proposed strategic actions that will set New Mexico on a path toward the vision were developed in a series Commission on Access to Justice meetings. These meetings included members of the Commission, persons active in the community on civil justice issues, representatives of civil legal service providers, and community members. A list of the individuals and organizations that participated is included in Appendix 1.

The sixteen components were divided into four sets and each set was assigned to a working group. These working groups convened on December 14, 2018, January 11, 2019, April 12, 2019, and June 12th, 2019 during Commission meetings to continue to refine the strategic action proposals. During these strategic planning conversations, groups followed four guidelines to prioritize proposals for realistic, meaningful action in 2020-2021that will coordinate collective efforts that begin to improve access to justice in New Mexico:

- Capacity Identify strategic actions that increase coordination, communication, and collaboration among key stakeholders in our civil justice system to build momentum and move forward together.
- Focus Break down larger strategic issues and challenges into realistic, relevant strategic action steps for 2020-2021.
- Momentum Build confidence and generate engagement to expand and sustain the effort with "small wins" that lead toward necessary system change.
- Resources Find "bright spots" in New Mexico that are already happening within current financial and human resources and identify strategic action to scale up key activities.

The working groups used these practical guidelines to select realistic, priority actions to begin this systemic work. At the final planning meeting, the planning participants reviewed the list of recommended strategic actions grouped by component. Participants then further prioritized the component areas by identifying the top three priority components and the number one component. The list below reflects this general sense of priority. After the approval of a final plan, this overall sense of priority will be useful to guide the work of the implementation teams as they complete the detailed action planning, examine available resources, and set realistic deadlines for completion.

#### New Mexico's Strategic Actions for 2020-2021 Organized by Strategic Component Framework of the Justice for All Initiative

# 1. BROAD SELF-HELP INFORMATIONAL SERVICES

#### Strategic Actions 2020-2021

- Integrate and align existing self-help materials currently available from different providers in order to make them available on an enhanced website.
- Consult with the State Bar to create a working group that will explore the role of the private bar to expand legal materials availability.
- Update existing websites with accurate information on all providers.
- Create videos in different languages that explain general process/procedures along with instructions on how to change custody, deal with eviction, file a restraining order, preparing for hearings, etc.
- Explore the feasibility of a statewide self-help service center using telephone, internet, co-browsing, and chat.

**Reasoning** – The system can appear complex and confusing to users without knowledge or experience. Demystifying the system and explaining it to self-represented litigants and the public in plain language is critical to achieving access to justice. Self-represented litigants (SRLs) are a

growing demographic in New Mexico that must be a priority. Work on these strategic elements is connected to the development of the online system addressed in "Triage, Referral, and Channel Integration."

An inventory of existing materials can lead to a readily available set of well-integrated materials. NEW MEXICOLA has been a national leader in implementing an online portal structured to deliver information focused on the specific problems that a user faces. With an enhanced and continually updated content for this website platform, user experience will improve and more will receive meaningful help. Other states with significant rural population like New Mexico are successfully using a statewide self-help center model and New Mexico can learn from their experience.

- All information provided in plain language
- Instructions on legal processes, applicable law, and how to prepare for and present a case
- Links to information and forms on other specific subject matters, including out-of-court resolution
- Materials optimized for mobile viewing
- Information on which courthouses hear what cases and court access, e.g., transportation
- Multiple channels of providing information, e.g., workshops, online

# 2. COMMUNITY INTEGRATION AND PREVENTION

#### Strategic Actions 2020-2021

- Promote and collaborate on an initiative to engage trusted intermediaries who can expand system capacity and facilitate use by end-users regardless of personal capacity or geographic location
- Increase coordination and integration amongst the civil legal service programs and other community-based groups whose client bases need civil legal assistance
- Continue implement of the "... And Justice for All" communications campaign to educate the public about the importance of access to assistance with civil legal needs
- Prepare regular Quarterly Bar Bulletin inserts or articles that report on developments at the community level and continue to identify ways for members of the bar to support this work
- Deliver regular communications to the New Mexico Supreme Court and State Bar of New Mexico to keep both bodies up to date on Commission activities and progress with the strategic plan

**Reasoning** – Adopting the point of view of users and addressing civil legal issues before they worsen can save time and money, and avoid what can be a burdensome court process. Most civil legal issues never make it to the court system. It is critical to maintain a gateway between legal/information services and the community stakeholders where users

interact. At the national level, there are major developments that analyze, propose, and report upon the addition of new roles in the system to directly improve access to justice. A number of states have already begun to implement different models for using trusted intermediaries such as social workers, librarians, and others. New Mexico Legal Aid has a pilot program to train what they call "community justice workers" and it shows promise. The Commission's request for proposals mentioned above will generate more coordination among providers.

- Drafting rule to protect trusted intermediaries from engaging in and being charged with the unauthorized practice of law.
- Integrating community resources into provider services
- Collecting and sharing information on the user experience across providers
- Enhancing collaborative partnerships that include social service providers
- Conducting education about dispute resolution without legal action
- Exploring Project Echo, a proven approach that is now being used outside of healthcare in education, police training, and other fields, that could directly support the rapid development of a statewide, legal navigator resource

# 3. EXPANSION AND EFFICIENCY IMPROVEMENTS OF FULL-SERVICE REPRESENTATION

#### Strategic Actions 2020-2021

- Reduce the number of eligible applicants that are turned away by civil legal services programs by:
  - o Increasing funding for these programs
  - o Focusing efforts on essential legal needs and other priorities in the Supreme Court's state plan
  - o Improving collaboration by programs
  - o Encouraging innovations in assistance to households with incomes between 125 and 200 percent of the federal poverty level
- Reevaluate emeritus attorney rule to increase pro bono resources
- Ensure that pro bono attorneys have access to practice guides to enable them to provide assistance beyond their specialty areas

Reasoning - The vast majority of fullservice representation is provided by civil legal services programs and those programs who will require a significant increase in resources in order to expand services. The scope of this component area is large and will require substantial additional analysis to address some of the strategic considerations, below. Even with the most efficient triage and selfhelp systems in place, there will be many people who need full-scale representation in order to navigate the legal system and resolve their problems. This may be the case where a legal issue is particularly complex, where the stakes are high, e.g., a person is at risk of becoming homeless,

or mental health, age, or another capacity issue impede the person's ability to fend for himself or herself. The implementation team should undertake to flesh out a plan for this component that encompasses all the strategic considerations listed in the guidance materials, listed below. Retired lawyers are a primary untapped resource for pro bono representation to be developed. The Statewide Pro Bono Coordinator currently conducts trainings for prospective pro bono attorneys around the State on issues where users commonly represent themselves. Practice guides should be developed to guide pro bono attorneys handling cases not in their area of expertise.

- Recognize that strategies will be different for free legal services and market-based solutions.
- Assess existing service capacity in the state, factoring in geographic differences where they exist.
- Identify effective service pro bono, legal aid and market-based delivery strategies that have potential to be replicated or scaled up.
- Incorporate litigation strategies that have the potential to impact many people and thus decrease the need for full representation in the future.
- Provide training and assistance with implementation of best practices for utilizing technology and process improvement, and identifying potential funding, pro bono, and in-kind support to make this possible.
- Provide training and mentoring for pro bono volunteers, both on substantive issues and on how to work with low-income clients.

#### 4. RESOURCE PLANNING

#### Strategic Actions 2020-2021

- Develop and implement a plan to establish a unified resource development entity capable of expanding fundraising, securing grants, and coordinating provider resource development efforts for the entire system.
- Develop a detailed strategic plan for resource development that can be guided by the new entity.
- Develop an updated resource budget to support long-term strategy for ensuring sufficient resources for implementation of this and future plans.

**Reasoning** – The major perceived access to justice barrier in New Mexico is lack of resources. Developing a nuanced long-term strategy for ensuring sufficient resources for implementation of the plan is key. To be credible in major fundraising efforts and in seeking major grants, donors and funders must find the requests to be part of a clear plan designed for significant impact. Any strategy will need to reflect New Mexico's challenging realities and embrace flexibility and innovation in resource planning. As a commission of the New Mexico Supreme Court, the Commission on Access to Justice is restricted from advocating for increased funding from the state legislature however, the Commission can assist with the organization needed for effective fundraising coordination.

Additional strategic considerations to address in future planning include:

• Staffing position dedicated to resource planning

#### 5. SIMPLIFICATION

#### Strategic Actions 2020-2021

- Make courthouses more user-friendly by developing and implementing appropriate signage.
- Expand and enhance the use of "Guide and File" document assembly software already in use.
- Develop a protocol for court staff to provide smaller forms packets.

Reasoning-Full access to justice at reasonable cost requires an approach that simplifies processes where possible, makes innovative forms of assistance more appropriate, and increases public trust and confidence in the legal system. AOC staff\* will work with key stakeholders to implement these actions. New Mexico can benefit from other states that have progressed with the first two proposed actions. We can draw upon available national resources that provide experience with successful state implementation and established best practices. The Supreme Court is currently running an online dispute resolution pilot project.

\* The Administrative Office of the Courts (AOC) is an important, existing resource with the staff and budget to work under the direction of the New Mexico Supreme Court on activities to address effective administration of the court system, including civil justice. Therefore, there is likely to be an important player in many of the strategic actions in this plan for AOC staff.

Additional strategic considerations to address in future planning include:

- Enabling lawyers and SRLs to appear remotely by video from their offices
- Conducting an in-depth study of how New Mexico courts handle matters in which large numbers of SRLs appear
- Designing one-stop shopping used to simplify user experience
- Streamlining internal court operations, including automated generation of orders and judgments
- Having forms, legal documents and oral communications, including face-to-face conversations using plain language
- Reviewing courtroom procedures to determine more effective ways of providing information and helping parties come to resolution
- Simplifying court rules to eliminate unnecessary appearances and filings
- Simplifying service of process

#### 6. PLAIN LANGUAGE FORMS

#### Strategic Actions 2020-2021

• Develop plain language forms for cases where users commonly represent themselves.

**Reasoning** – It is almost impossible to deploy any innovation for court users without getting standardized forms in place. The language and design of the forms is critical. The AOC staff are an available resource to work in conjunction with a All **Justice** for strategic planning implementation team and the State Bar's Language Access Committee to develop a detailed plan to develop the forms and a plain language guide. This will utilize nationally recognized resources on plain language that describe plain language principles and outline New Mexico form sets that will be translated into plain language. This plan will identify additional resources needed to translate forms into plain language. Plain language planning should be coordinated with the Supreme Court's "Guide and File" document assembly software.

- Protocols for assessing and updating forms
- Testing for comprehensibility and usability
- Form data integration with the court information system

#### 7. DESIGN, GOVERNANCE AND MANAGEMENT

#### Strategic Actions 2020-2021

- Map out the Commission's structure (Supreme Court, staff, steering committee, implementation teams, other Implementation Teams, etc.) and begin implementation.
- Create new implementation teams aligned with the Justice for All Strategic Action Plan.
- Revise the current process for appointing commissioners and create a process that results in greater diversity, including people of color, and inclusion of key stakeholders on Commission.
- Recruit diverse stakeholders including users and the private bar to oversee meaningful progress in ATJ.
- Develop a plan for justice system user focus groups and surveys to inform access to justice work on an ongoing basis.
- Develop a plan for community-based organizations to inform access to justice work on an ongoing basis.
- Educate local district pro bono groups about the Justice for All Initiative and establish local committees to provide feedback to the Commission and assist with implementation tasks.
- Develop a comprehensive plan for evaluation of progress with an inventory of what data, including information on race and gender, the Commission should be gathering on a regular basis.

**Reasoning** – A strategy to achieve 100 percent meaningful access to justice

represents a major change in legal culture and institutional approach for New Mexico. This indicates the need for alliances with a broader set of stakeholders through mechanisms that more fully engage litigant and user voices. New Mexico's established Access to Justice Commission is a strong platform. However, its composition, representativeness, and level of engagement with stakeholders must be strengthened to support the ongoing journey toward full access.

# 8. JUDICIAL AND COURT STAFF EDUCATION

#### Strategic Actions 2020-2021

• Establish a working relationship with the Judicial Education Center to coordinate its planning work with related strategic actions in this plan.

**Reasoning** — Lack of direct efforts by individual courts and lack of consistency throughout the judiciary in addressing the issues raised in this plan are major concerns. A judiciary willing to lead and inspire not just the courts, but also the many access to justice constituencies and partners, is key to achieving meaningful access to justice for all. Equally important is an access-friendly courtroom environment, presided over by a judge who knows how to handle every kind of case, from the heavily-lawyered to the entirely self-represented. The Judicial Education Center (JEC) is well-established and already has a substantial range of programs, working directly with the

Supreme Court to identify and respond to these needs in New Mexico. JEC is currently in consultation with their key stakeholders to identify additional strategic priorities.

Additional strategic considerations to address in future planning include:

- State judicial and court staff education programs should follow adult learning principles, be dynamic and interactive, and address the following topics:
  - o Engagement with self-represented litigants and how court staff can provide effective assistance to court users
  - o Availability of community resources and other referral opportunities
  - o Language access requirements and procedures
  - o Procedural fairness
  - o Change leadership for judges
  - o Cultural sensitivity

# 9. TRIAGE, REFERRAL AND CHANNEL INTEGRATION

#### Strategic Actions 2020-2021

• Build and maintain a robust online system that assesses what services each individual needs and each situation requires, and makes appropriate and verified referrals.

**Reasoning** – The civil legal services system must have the capacity to assess the services each individual needs and situation requires, and make the appropriate and verified referrals. The idea is to create "no wrong door" through which people with

essential legal needs access the system. This is already done in many self-help centers and community-based legal aid programs, but can be expanded through integration with community partners. New Mexico has made significant progress with these key elements. New Mexico Legal Aid developed the first triaging portal in the nation to help individuals learn whether they have a legal problem, link them to information concerning the problem, and refer them to service providers able to help them with their problem. The recent incorporation of the statewide legal telephonic helpline into New Mexico Legal Aid provides a strong platform with some resources to convene other stakeholders and develop a better-integrated online system. Successful examples of expertise with self-help and referral already exist in some judicial districts, for example the Foreclosure Settlement Program (FSP) in the First, Second and Thirteenth Judicial Districts. An up-to-date, integrated online system will be an important system building block. In addition, the Commission recently issued a request for proposals for an individual or individuals to facilitate closer working relations between providers. including the development of referral protocols.

Additional strategic considerations to address in future planning include:

• Exploring the opportunity to build upon successful models that already exist in New Mexico in the health care system for effective referral of patients to additional provider resources with interactive tools for users

# 10. COURTROOM ASSISTANCE SERVICES

#### Strategic Actions 2020-2021

• Explore courtroom/courthouse navigator options

Reasoning - Many self-represented litigants have never been to court before and have no idea what to do inside a courtroom. Not only is it helpful to the self-represented litigants to prepare them for court, but a well-prepared self-represented litigant will move through the process more quickly, saving the court's time and that of other litigants. This action will require significant development to move ahead to implementation. The Commission will convene a special working group specific to this issue that will include representation from the Supreme Court, Court Executive Officers, judges, the State Bar, and the law school. This group will explore navigator programs in other states and develop a proposal for implementing a similar program in New Mexico. There are a number of navigator-type programs in other states where court staff are providing information to self-represented litigants about court processes. The amount of information and the individualization of this information varies from program to program and is also dependent on state rules about court staff. This working group will explore these options and make recommendations about the best model for New Mexico. The working group will also make recommendations regarding the cost of such a program and funding options for the program.

Additional strategic considerations to address in future planning include:

- Use of instructional videos on logistics and procedures
- In-person assistance in courts statewide
- Technology tools to support the work of assistants, such as automated forms
- Technology tools for judges to prepare final orders in the court room
- Training tools for personal assistants and court staff

# 11. ROLE FLEXIBILITY FOR OTHER PROFESSIONALS

#### Strategic Actions 2020-2021

- Support implementation of a new legal professional role as designed and recommended by the New Mexico Supreme Court Implementation Team
- Continue to explore other models for role flexibility for other legal professionals

**Reasoning** — It is important to explore a coordinated set of new roles that provide legal services in addition to lawyers. Much as healthcare created new roles to supplement doctors and nurses in a responsible and cost-effective way, the justice system can design new roles that provide valuable niche services for less cost than a traditional lawyer. Current examples navigators, court include facilitators, document preparers or legal technicians, practitioner paralegals. There is significant activity on the national level that describes and assesses meaningful progress with this issue. The New Mexico Supreme Court has convened a group to design and implement such a program.

Additional strategic considerations to address in future planning include:

- Assist litigants in navigating court processes on-site
- Assist litigants in selecting and filling out forms
- Assist litigants in complying with legal processes for case actions with large numbers of self-represented litigants

#### 12. TECHNOLOGY CAPACITY

#### Strategic Actions 2020-2021

- Inventory current technology capacity within the court system and the provider community
- Analyze where within the civil legal services system specific types of technology capacity should be housed
- Seek funding appropriate for purchasing specific types of priority technology capacity

**Reasoning** – Technology is an enabler of many existing and new capabilities. Some of these capabilities cannot scale cost effectively without automation. Because technology capacity exists within the organizations of individual stakeholders, there is often a need for better coordination and integration. The technology capacity identified in the strategic considerations for this compo-

nent will need to be developed both within the courts and within the provider community. With limited resources, careful analysis of gaps and priorities will be important. It will be necessary to decide where specific types of expertise should be housed and then to pursue the funding to obtain that expertise. The AOC has a Chief Information Officer who is directed by the Judicial Information Systems Council (JIFFY), an advisory group of judges and key system users to actively plan and coordinate the integration of technology into the court system.

Additional strategic considerations to address in future planning include:

- User experience design expertise
- Multimedia design expertise
- Application integration expertise
- Process simplification expertise
- Facilitation of remote access and resolution

# 13. UNBUNDLED (DISCRETE TASK) LEGAL ASSISTANCE

#### Strategic Actions 2020-2021

- Identify best practices in other states within the Justice for All Initiative that have demographics similar to New Mexico and have made progress with unbundled legal assistance.
- Convene an Implementation Team with key representatives of the State Bar and the judiciary to identify the path forward to expand the practice of offering unbundled legal services in New Mexico.

**Reasoning** – The availability of lawyers to perform discrete task representation (also referred to as limited scope or unbundled law practice) can significantly increase the capacity of the civil justice system to meet essential legal needs. Discrete task representation leaves the client with responsibility for moving the case forward, relying on the lawyer to help with specific issues or tasks at the client's request. When integrated effectively with self-help tools, this blend of services can deploy scarce resources to achieve better client outcomes. The Commission facilitated the adoption of Rule 16-102(c) to allow unbundled representation in 2008. However, there is much work to be done to address the strategic considerations listed below. An important part of the long-term thinking necessary to address this component requires full collaboration with the State Bar of New Mexico.

Additional strategic considerations to address in future planning include:

- Lawyers willing to provide legal services on an unbundled basis
- Training and resources to support participating lawyers
- Screening, triage and referral components to connect these lawyers with persons seeking their services
- Processes for conclusion of limited scope representation so client is aware of remaining legal needs and how to use self-help or other resources
- Adoption of rules (e.g. ghostwriting, conflicts, limited appearance) that facilitate limited scope representation

- and ease in entering and exiting a matter for an attorney
- Adoption of rule prohibiting trial judges from requiring counsel to perform duties beyond those agreed to with the client
- Full acceptance of the practice by the judiciary
- Good lines of communication between the limited scope attorney and the client

#### 14. LANGUAGE ACCESS

#### Strategic Actions 2020-2021

- Expand internet access especially in rural areas and work with agencies to recruit interpreters.
- Create well-paid career opportunities for bilinguals in New Mexico through continuing partnership between AOC and New Mexico Department of Workforce Solutions
- Continue to develop bilingual forms, the online avatar, an expanded court bilingual employee pool, and new videos and signage.
- Assure continuing availability of video remote interpreting services on-demand to improve access for court users who speak languages spoken less frequently for which interpreter services are not available in New Mexico.
- Implement and expand relationship with ReadWest, Inc., a non-profit volunteer literacy program, to provide scribing services at the courts for limited-English proficient, low literacy, blind or low-vision individuals.

**Reasoning** – Over 25.6 million people (8.5%) in the U.S. are limited-English proficient (LEP). Approximately, 181,900 New

Mexicans are limited-English proficient, or 1%. Most if not all states are experiencing increasing numbers of LEP court and legal system users. Federal law and regulations direct that courts must provide meaningful language access to all users. The Administrative Office of the Courts has a well-developed Language Services Integration program with a well-developed program. This program has a detailed strategic plan with substantial momentum to build upon. AOC has already developed forms in Spanish including free process and domestic orders of protection. AOC will continue to develop forms in Spanish. An online avatar has been implemented for LEP, low literacy, blind or low-vision individuals. The plan is to continue to develop the avatar to include additional services in other languages.

Additional strategic considerations to address in future planning include:

- Language access services at all points of contact between LEP users and all legal system components
- Quality of language access services and providers

#### 15. COMPLIANCE ASSISTANCE

#### Strategic Actions 2020-2021

• Expand the use of text message reminders to litigants

**Reasoning** – A lack of comprehension about legal processes can lead to non-compliance and costly continuances for users and courts during the court process and

even more costly enforcement actions after a judgment has been rendered. This 'component directly addresses strategies for increasing comprehension of and compliance with legal processes court orders. Metropolitan Court and the Second Judicial District Court in County already Bernalillo use text remind about messaging to users upcoming court dates in some types of cases. AOC staff and the implementation team will work with CEOs and court identify additional managers to case types in which it would be helpful to send users text reminders. Some possible case types include landlord-tenant and debt and money due cases. AOC staff can also work with interested courts to train court staff on using the text messaging software and ensuring that users are properly notified of their ability to opt-in and out of receiving text messages. There may need for rule-making activity and for clarity that text messaging is not a substitute for proper service of process.

- Making written orders and compliance information available immediately after a hearing
- Increasing use of plain language orders and judgments
- More explanations provided by judges and other court staff
- Online tools to assist with compliance and enforcement
- Collaboration with stakeholders and users to identify common problems and ways to address them

# 16. ALTERNATIVE DISPUTE RESOLUTION (ADR) INTEGRATION

#### Strategic Actions 2020-2021

• Establish an ongoing working relationship with a working group within the ADR Commission to integrate their proposed strategic actions with relevant parts of this plan, and develop new strategic actions as necessary to address essential legal needs such as landlord-tenant, consumer issues, family law, etc.

**Reasoning** — There is little disagreement that some modes of ADR are appropriate and helpful in some contexts and situations. New Mexico has a number of well-developed programs and much experience to build upon. In particular, the Metropolitan Court Mediation program has been a model. It is important that New Mexico's ADR program be appropriately integrated into the system and conducted in a way that aligns with access to justice principles. The New Mexico Supreme Court has created the Alternative Dispute Resolution Commission that has guided planning and development of activities that adstrategic elements. dress these As the Commission on Access to Justice proceeds with strategic planning and implementation, it should coordinate with the ADR Commission.

Additional strategic considerations to address in future planning include:

• Provision of information about ADR modes and processes, substantive ADR law, and consequences

- ADR information available online and integrated into a website portal
- Clear codes of ethics for the non-judicial neutrals to strengthen practices
- Improved access to ADR modes provided within the procedural context, possibly through self-help
- Ethically appropriate collaborations between access to justice stakeholders and ADR providers

Meaningful implementation planning must include deadlines, resources needed, likely key participants; and outcome measures for each strategic action. The implementation teams will do this work once the final version of the plan has been approved by the Commission and the New Mexico Supreme Court.

### **CONCLUSION**

The completion of this planning is the result of many hours of work by many individuals who have donated their time. It is a testament to their commitment to access to justice in New Mexico that they have remained engaged though a long, multi-phase process. With the completion of the planning, it is now time to move forward to implementation.

One of the most important aspects of implementation - and one of the biggest challenges - will be the expansion of implementation teams to include justice system users and community members, and to do so in a way that is meaningful. We know from the experience of other states that bringing diverse voices into the ongoing work toward the vision of equal access to justice has been fundamentally important to their progress.

When the ultimate goal is monumental, the necessary cycle of planning, implementation, assessment, and course correction must be sustainable. Detailed annual planning and review of progress toward short term goals must include disciplined assessment of results by tracking useful indicators over time. Meaningful measurement of results will not always

be easy. As a part of a national effort, we will be able to benefit from the positive experience of other states to establish useful evaluation elements for our strategic actions.

It will be essential to examine our process, be constructively critical of our mistakes, and improve the results over time. With strong leadership, sustained effort, and accountability, we can foresee that we will make progress. Louis D. Brandeis once said, "Most of the things worth doing in the world had been declared impossible before they were done." We know that realizing the vision of 100 percent access to meaningful assistance with essential legal needs is ambitious, to say the least. But no one should question that it is a worthy vision, and one that our values and our Constitution require that we zealously pursue.

As we face the inevitable challenges ahead, we know we are in partnership with other states that are using a similar model. We are part of a learning network speaking a common language that will continue to provide us with successes to follow and mistakes to learn from. This is a tremendous advantage to build our confidence and determination for the important work ahead.

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City of Albuquerque - Councilor Pat Davis

El Centro Family Health Espanola -

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Con Alma Health Foundation -Dolores Roybal

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